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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,630	10/01/2001	Jiang Liang	RD-29301	2277

6147 7590 08/13/2002

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EXAMINER

WESSMAN, ANDREW E

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,630

Applicant(s)

LIANG ET AL.

Examiner

Andrew E Wessman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. New claims 35-58 have been submitted for examination. All previously pending claims have been cancelled. The newly submitted claims correspond to the claims as originally filed by the following correspondence.

Claims 35-37 and 39 correspond to originally filed claims 1, 6, 8, and 10.

Claim 38 corresponds to originally filed claim 7.

Claims 40-42 correspond to originally filed claim 11-13

Claim 43 corresponds to originally filed claim 19.

Claims 44-51 correspond to originally filed claims 15-21.

Claims 52-55 correspond to originally filed claims 28-31.

Claims 56-58 correspond to originally filed claims 32-34.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 2, 2002 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 35-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinacher et al.

Reinacher et al. is applied to the claims for the reasons set forth in paper No. 3, paragraphs 3 and 5, relating to originally filed claims 1-8 and 10-26. The newly filed claims correspond to the originally filed claims because they contain the same subject matter, and are therefore rejected for the same reasons.

5. Claims 52-58 rejected under 35 U.S.C. 103(a) as being unpatentable over Reinacher et al. in view of Selman et al.

Reinacher et al. in view of Selman et al. is applied to the claims for the reasons set forth in paper No. 3, paragraph 6, relating to originally filed claims 9 and 27-34. The newly filed claims correspond to the originally filed claims because they contain the same subject matter, and therefore are rejected for the same reasons.

Response to Arguments

6. Applicant's arguments filed July 2, 2002 have been fully considered but they are not persuasive. In the remarks, applicant has argued that the combination of properties achieved by the claimed invention were the result of extensive experimentation to achieve an optimal balance of desired properties of the alloy. A declaration by one of the named inventors has been submitted as evidence of this experimental process. However, the declaration filed does not provide evidence of unexpected results obtained from the experiment, as no actual data from the experimental process was submitted. Unexpected results cannot be shown based solely on the experimental

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procedure. To show such unexpected results obtained by the experimentation, it is recommended that the applicant provide further evidence in declaration form of the actual data obtained by the experiments, showing that the required properties of the alloy are only achieved in the ranges claimed by the applicant, and not outside such ranges. Such a showing of unexpected results obtained from the experimental process may only be shown by the direct showing of data obtained in such processes, and not simply a showing of the procedures used to obtain such data.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew E Wessman whose telephone number is (703)305-3163. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (703)308-1146. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

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AEW

August 12, 2002

ROY KING *R*
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700